

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

SARAH MAE LYNN ENGLES,)

Plaintiff,)

v.)

Case No. CIV-20-367-JFH-SPS

KILOLO KIJAKAZI,)

Acting Commissioner of the Social)

Security Administration,¹)

Defendant.)

REPORT AND RECOMMENDATION

The Plaintiff was the prevailing party in this appeal from the Commissioner of the Social Security Administration’s decision denying benefits under the Social Security Act. She now seeks attorney’s fees in the amount of \$6,037.60, under the Equal Access to Justice Act (the “EAJA”), 28 U.S.C. § 2412. *See* Docket No. 20. The Court has referred the motions to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(C). *See* Docket No. 21. The Commissioner has neither responded nor objected to the request for a fee award in this case. For the reasons set forth below, the undersigned Magistrate Judge recommends that the Plaintiff be awarded the requested fees under the EAJA.

Upon independent review of the record herein, the undersigned Magistrate Judge finds that the amount is reasonable and that the Commissioner should be ordered to pay

¹ On July 9, 2021, Kilolo Kijakazi became the Commissioner of Social Security. In accordance with Fed. R. Civ. P. 25(d), Ms. Kijakazi is substituted for Andrew M. Saul as the Defendant in this action.

the fee to the Plaintiff as the prevailing party herein. *See* 28 U.S.C. § 2412(d)(1)(A) (“Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses, in addition to any costs awarded pursuant to subsection (a), incurred by that party in any civil action (other than cases sounding in tort)[.]”); *see also Manning v. Astrue*, 510 F.3d 1246, 1251 (10th Cir. 2007) (“The EAJA therefore permits attorney’s fees reimbursement to financially eligible prevailing parties, who make a proper application, and not to their attorneys.”).

Accordingly, the undersigned Magistrate Judge hereby PROPOSES the findings set forth above and RECOMMENDS that Plaintiff’s Application for Award of Attorney’s Fees Pursuant to the Equal Access to Justice Act § 2412 [Docket No. 20] be GRANTED, and that the Court award attorney’s fees to the Plaintiff in the amount of \$6,037.60 as the prevailing party herein. The undersigned Magistrate Judge notes that if the Plaintiff’s attorney is subsequently awarded any fees pursuant to 42 U.S.C. § 406(b)(1), said attorney shall refund the smaller amount of such fees to the Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986). Any objection to this Report and Recommendation must be filed within fourteen days. *See* Federal R. Civ. P. 72(b)(2).

IT IS SO ORDERED this 30th day of August, 2021.



STEVEN P. SHREDER
UNITED STATES MAGISTRATE JUDGE